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FISCAL IMPACT STATEMENT

LS 6175

BILL NUMBER: SB 143

NOTE PREPARED: Nov 24, 2012

BILL AMENDED:

SUBJECT: False Statements to State Agencies.

FIRST AUTHOR: Sen. Mrvan

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Employee False Statements:* The bill provides that a person who knowingly or intentionally makes a false statement of independent contractor status to the Department of State Revenue commits a Class D felony.

Employee Classification: The bill also provides that an employer or employee who misclassifies a person as an independent contractor for the sole or primary purpose of avoiding the worker's compensation law commits a Class A misdemeanor.

False Representation: The bill provides that a person who makes a false representation that an employee is an independent contractor to avoid liability under the unemployment compensation law commits a Class C misdemeanor.

Corrections and Conforming Amendments: The bill also makes technical corrections and conforming amendments.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Employee False Statements:* There are no data available to indicate how many employees may knowingly or intentionally file a false statement or false supporting documentation concerning independent contractor status, a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class

A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,234 annually, or \$8.86 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: Summary: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase.

Employee False Statements: The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

False Representation: The bill also species that a Class C misdemeanor applies to an employing unit or other person who makes a false statement or representation if an employee is misclassified as an independent contractor. The maximum fine for a Class C misdemeanor is \$500. However, any additional revenue would likely be small.

Employee Classification: The bill adds a Class A misdemeanor for an employer or employee who misclassifies an employee as an independent contractor to avoid rights or remedies due to the employee or liability for workers' compensation. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

Court Fees: If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$5), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: *Employee Classification and False Representation:* A Class C misdemeanor is punishable by up to 60 days in jail, and Class A misdemeanor is punishable by up to one year in jail. Also, if more defendants are detained in county jails prior to their felony court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Court Fees:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. Persons found guilty of a felony or misdemeanor are also required to pay the document storage fee (\$2), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund. However, any change in revenue would likely be small.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; Department of Correction.

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